

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

MICKEL G. HOBACK,)	
)	
Plaintiff,)	No. 1-10-cv-00074
)	
vs.)	Collier/Lee
)	
THE CITY OF CHATTANOOGA,)	JURY DEMAND
)	
Defendant.)	

PLAINTIFF'S EXHIBIT LIST

Comes now Mickel G. Hoback ("Plaintiff"), pursuant to Rule 26(a)(3)(iii) of the Federal Rules of Civil Procedure, and serves the following Exhibit List to the City of Chattanooga ("Defendant"). Plaintiff provides the following identification of each document or other exhibit:

1. Letter of Termination of Mickel G. Hoback's Employment from Freeman Cooper dated July 21, 2009 (Administration Exhibit 1 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
2. Psychological Fitness for Duty Evaluation Summary by Donald L. Brookshire, Psy.D. (Administration Exhibit 2 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
3. Test data from Psychological Fitness for Duty Evaluation performed by Donald L. Brookshire, Psy.D., (Administration Exhibit 3 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
4. Report of Terrell M. McDaniel, Ph.D., Institute for Forensic Psychology, July 2, 2009 (Defense Exhibit 11, and Administration Exhibit 4, at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
5. Test data from Evaluation performed by Terrell M. McDaniel, Ph.D., Institute for

Forensic Psychology, July 2, 2009 (Plaintiff Expects to Offer);

6. Letter from Freeman Cooper dated April 14, 2009 to Officer Mickel G. Hoback re: Relief from Duty (Administration Exhibit 6 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
7. Letter from Freeman Cooper dated April 15, 2009 to Donna Kelly requesting "*Fit for Duty* psychological exam" of Mickel G. Hoback (Administration Exhibit 7 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
8. Letter from Captain Mike Mathis dated April 16, 2009 to Donna Kelley re: appointment with Dr. Donald Brookshire (Administration Exhibit 8 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer if Needed);
9. Letter from Mark Murphy, LCSW to Mickel G. Hoback dated April 15, 2009 (Administration Exhibit 9 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects May Offer If Needed);
10. Certificate of Need for Involuntary Commitment dated April 13, 2009 (Administration Exhibit 10 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
11. Authorization signed by Mickel G. Hoback, October 9, 1998 (Plaintiff May Offer if Needed);
12. Handwritten request from Mickel Hoback for second psychological exam dated May 26, 2009 (Administration Exhibit 12 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer if Needed);
13. Letter from Donna Kelley to Mickel G. Hoback dated June 4, 2009 re: appointment with Dr. Terrell McDaniel (Administration Exhibit 13 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer if Needed);
14. Charter of the City of Chattanooga (Plaintiff May Offer if Needed);
15. Tenn. Code Ann. § 38-8-106 (Plaintiff May Offer if Needed);

16. Rules of the Tennessee Peace Officer Standards and Training (POST) Commission (Plaintiff May Offer if Needed);
17. Records from the United States Department of Veterans Affairs, Chattanooga Vet Center, Tennessee Valley Healthcare System re: Mickel G. Hoback (Administration Exhibit 16 and Defense Exhibit 10 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
18. Notes of Counselor Bearden from US Dept of Veterans Affairs re: Mickel G. Hoback (Plaintiff May Offer If Needed);
19. Transcript of the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009, Volumes I through IV, 482 pages (Plaintiff Expects to Offer);
20. Mickel G. Hoback's Personnel File (Plaintiff May Offer If Needed);
- 21-A. Mickel G. Hoback's Annual Performance Rating Worksheet for Officers Primarily Assigned to Patrol, April 1, 2008 to March 31, 2009 (Defense Exhibit 1 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-B. Report of Employee Efficiency Ratings of Mickel G. Hoback from September 2001 to March 2009 (Defense Exhibit 2 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-C. Awards and Letters of Commendation (Defense Exhibit 3 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-D. E-mails from Superiors Commending Mickel G. Hoback's Performance (Defense Exhibit 4 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-E. Psychological Test taken for Chattanooga Police Department, Hostage Negotiating Team, September 15, 2008 and Questionnaires used for Psychological Fitness for Duty Evaluation (Defense Exhibit 5 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-F. Rules of the Tennessee Peace Officer Standards and Training (POST) Commission

(Plaintiff May Offer if Needed);

- 21-G. Fax to Donald L. Brookshire, Psy.D., from Michael P. Bearden, LMSW (Defense Exhibit 7 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-H. Mickel G. Hoback's Medical Treatment Notes/Record (Defense Exhibit 8 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-I. Letters from Michael Bearden re: Mickel G. Hoback with medical notes (Defense Exhibit 9 (Bates No. 000508-000586) at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-J. April 14, 2009 Progress Notes (Defense Exhibit 10 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-K. Report of Terrell M. McDaniel, Ph.D., Institute for Forensic Psychology, July 2, 2009 (Defense Exhibit 11, and Administration Exhibit 4, at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-L. Correspondence dated July 10, 2009 to Michael Bearden from Terrell M. McDaniel, Ph.D. (Defense Exhibit 12 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-M. Report of James S. Walker, Ph.D., Director of Vanderbilt Forensic Services, re: Mickel G. Hoback, August 18, 2009 (Defense Exhibit 13 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-N. Decision of the Department of Veterans Affairs re: Mickel G. Hoback, August 20, 2009 (Defense Exhibit 14 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);
- 21-O. Decision of the Department of Veterans Affairs re: Mickel G. Hoback, August 25, 2008 (Defense Exhibit 15 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff Expects to Offer);

- 21-P. Internal Affairs Division Officer Resume of Mickel G. Hoback (Defense Exhibit 16 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-Q. Curriculum Vitae of Donald L. Brookshire, Psy.D. (Defense Exhibit 17 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-R. Letter from W. Gerald Tidwell, Jr., to Crystal Freiberg dated August 28, 2009 (Defense Exhibit 18 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 21-S. Resume of Michael Patrick Bearden, LMSW (Defense Exhibit 19 at the Personnel Hearing re: Officer Mickel G. Hoback, Before the Chattanooga City Council, November 9, 2009) (Plaintiff May Offer If Needed);
- 22. Recordings on Compact Disc of Meeting on June 10, 2009, with Freeman Cooper and Mickel G. Hoback (Plaintiff May Offer if Needed);
- 23. Recording on Compact Disc of Meeting on June 30, 2009, with Freeman Cooper and Mickel G. Hoback (Plaintiff May Offer if Needed);
- 24. Recording on Compact Disc of Meeting on July 21, 2009, with Freeman Cooper and Mickel G. Hoback (Plaintiff May Offer if Needed);
- 25. E-mails of Communications regarding Mickel G. Hoback from April 13, 2009 through July 21, 2009 (Plaintiff May Offer if Needed);
- 26. E-mails from Zach McCullough dated April 14, 2009 regarding Mickel G. Hoback (Plaintiff May Offer if Needed);
- 27. Consent Order and Final Judgment in the matter of the United States of America vs. the State of Tennessee, filed on April 15, 2003, in the United States District Court for the Western District of Tennessee, Civil Action No. 1:98-1357, Judge James D. Todd (Plaintiff Expects to Offer);
- 28. Mickel G. Hoback's Salary Data from July 22, 2009 through May 5, 2011 (Plaintiff Expects to Offer);
- 29. Defendant's Responses to Requests for Admissions dated July 6, 2010 (Plaintiff Expects to Offer);
- 30. "Right To Sue" Letter from the U.S. Department of Justice to Mickel G. Hoback

dated January 20, 2010 (Plaintiff Expects to Offer);

31. Documents obtained from the Municipal Technical Advisory Service ("MTAS") related to the notification and education of Tennessee cities and municipalities of the existence and impact of the Consent Order and Final Judgment in the matter of the United States of America vs. the State of Tennessee, Civil Action No. 1:98-1357, including but not limited to e-mail and written notifications, workshop and conference participation lists, and the Hot Topics for Tennessee Cities and Towns published by MTAS;
32. Policy Manual of the Chattanooga Police Department (Plaintiff May Offer if Needed);
33. All Exhibits Listed by Defendant; and
34. All Exhibits Necessary for Rebuttal.

LAWRENCE & LAWRENCE, PLLC

By: s/ Phillip C. Lawrence
PHILLIP C. LAWRENCE, BPR #985
Attorneys for Mickel G. Hoback
200 East Eighth Street
Chattanooga, Tennessee 37402
Telephone: (423) 756-5031
Telecopier: (423) 756-4846

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

Crystal Freiberg, Esq.
801 Broad Street, Suite 400
Chattanooga, Tennessee 37402

This 12th day of September, 2011.

s/ Phillip C. Lawrence
PHILLIP C. LAWRENCE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

MICKEL G. HOBACK,	:	
	:	
Plaintiff,	:	CASE NO. 1:10-CV-74
	:	
vs.	:	JUDGE COLLIER/LEE
	:	
CITY OF CHATTANOOGA,	:	JURY DEMAND
	:	
Defendant.	:	

WITNESS AND EXHIBIT LIST

Comes the Defendant, City of Chattanooga, by and through counsel, and pursuant to this Court's Scheduling Order, submits its final list of witnesses that it anticipates calling at the trial of this matter.

Will Call:

1. Mickel G. Hoback, Plaintiff;
2. Former Police Chief Freeman Cooper, c/o City Attorney's Office, 100 E. 11th Street, Suite 200, Chattanooga, TN 37402;
3. Donna Kelley, Administrator, City of Chattanooga Personnel Department, 101 E. 11th Street, Chattanooga, TN 37402, (423) 757-5202;
4. Donald L. Brookshire, Ph.D., Chattanooga Lifestyle Center, 325 Market Street, Suite 305-B, Chattanooga, TN 37402;
5. Former Internal Affairs Captain Mike Mathis, c/o City Attorney, 100 E. 11th Street, Suite 200, Chattanooga, TN 37402;
6. Dr. Estella P. Acosta, M.D., Veteran's Administration, VAOPC, 951 Eastgate Loop Road, Chattanooga, TN 37411;

7. Michael Bearden, LMSW, Chattanooga Veteran's Administration, 951 Eastgate Loop ✓
Road, Chattanooga, TN 37411;
8. Robert Bohm, Ph.D., Economics Professor, University of Tennessee at Knoxville,
8348 Corteland Drive, Knoxville, TN 37909, (865) 974-1687;
9. Mark Murphy, Licensed Clinical Social Worker, Clinical Social Worker, 7A-B,
Tennessee Valley Healthcare System, Department of Veteran's Affairs, 3400
Lebanon Pike, Murfreesboro, TN 37219, (615) 225-5376;
10. Michael Favors, Chattanooga Police Department, 3300 Amnicola Highway,
Chattanooga, TN 37406, (423) 698-2525;
11. Adam Cavett, Chattanooga Police Department, 3300 Amnicola Highway,
Chattanooga, TN 37406, (423) 698-2525;
12. Tetzl Tillery, Chattanooga Police Department, 3300 Amnicola Highway,
Chattanooga, TN 37406, (423) 698-2525;
13. Lee Trip, ride along, _____;
14. Brian Grisham; **PAN**
15. Rex Barton or Sid Hemsley, MTAS Person, re: Notice to City of Chattanooga;
16. Parents of Mickel G. Hoback;
17. Graysville Police People, Wells, Mahoney;
18. Brad Parker, Cleveland;
19. William Marrett, Office of the Attorney General;
20. Susan Robertson, UT Institute of Public Service;

May Call:

21. Current Police Chief Bobby Dodd, Chattanooga Police Department, 3300 Amnicola
Highway, Chattanooga, TN 37406, (423) 698-2525;
22. Captain Ken Neblette Chattanooga Police Department, Internal Affairs, 100 E. 11th
Street, Suite 300, Chattanooga, TN 37402, (423) 698-2525;

23. Doug Kelley, City of Chattanooga Personnel Department, 101 E. 11th Street, Chattanooga, TN 37402, (423) 757-4859;
24. Terrell M. McDaniel, Ph.D., Institute for Forensic Psychology, 131 Sanders Ferry Road, Suite 203, Hendersonville, TN 37075, (615) 822-6878;
25. Captain Susan Blaine, Chattanooga Police Department, 3300 Amnicola Highway, Chattanooga, TN 37406, (423) 698-2525;
26. Sergeant Zach McCullough, Chattanooga Police Department, 3300 Amnicola Highway, Chattanooga, TN 37406, (423) 698-2525;
27. Sergeant Mark Smeltzer, Chattanooga Police Department, 3300 Amnicola Highway, Chattanooga, TN 37406, (423) 698-2525;
28. Sergeant David Frye, Chattanooga Police Department, 3300 Amnicola Highway, Chattanooga, TN 37406, (423) 698-2525;
29. Officer Jim Brock, Chattanooga Police Department, 3300 Amnicola Highway, Chattanooga, TN 37406, (423) 698-2525;
30. Dr. Nancy Yoanidis, 3400 Lebanon Pike, Murfreesboro, TN 37129;
31. Any necessary rebuttal witnesses; and
32. Any witnesses listed by any other party.

EXHIBIT LIST

1. Termination Letter dated July 21, 2009 for Mickel Hoback;
2. Psychological Fitness for Duty Evaluation from Dr. Donald L. Brookshire;
3. Test data from Dr. Brookshire regarding Mickel Hoback;
4. Psychological Fitness for Duty Evaluation from Dr. Terrell M. McDaniel, Ph.D.;
5. Test data from Dr. Brookshire regarding Mickel Hoback;
6. Letter dated April 14, 2009 from Chief Cooper to Mickel Hoback relieving him of duty;

7. Letter dated April 15, 2009 to Donna Kelley from Chief Cooper regarding Mickel Hoback;
8. Letter dated April 16, 2009 from Captain Mathis to Donna Kelley;
9. Letter to Mickel Hoback dated April 15, 2009 from Mark Murphy;
10. Certificate of Need for Involuntary Commitment for Mickel Hoback dated April 13, 2009;
11. Authorization signed by Mickel Hoback;
12. Handwritten request from Mickel Hoback for second psychological exam dated May 26, 2009;
13. Letter dated June 4, 2009 from Donna Kelley to Mickel Hoback;
14. Applicable City of Chattanooga Charter and City Code Sections;
15. Tenn. Code Ann. § 38-8-106;
16. Rules of Tennessee Peace Officer Standards and Training Commission, Chapter 1110-2 Certification;
17. Records from U.S. Department of Veterans Affairs regarding Mickel Hoback;
18. Transcript of City Council Hearing held on November 9, 2009;
19. All documents contained in the employee file of Mickel G. Hoback with the City of Chattanooga;
20. All documents introduced as exhibits at the proceedings on November 9, 2009 before the panel of the Chattanooga City Council;
21. All pay records of Mickel G. Hoback with the City of Chattanooga;
22. Report of Dr. James S. Walker relating to medical condition of Mickel G. Hoback;
23. Copy of April 15, 2003 "Consent Order and Final Judgment" in the case of *United States of America v. State of Tennessee*, Civil Action No. 1:98-1357, in the U.S. District Court for the Western District of Tennessee, Eastern Division at Jackson;

- 24. Reports of Dr. James S. Walker and Terrell M. McDaniel;
- 25. Any necessary rebuttal exhibits; and
- 26. Any exhibits listed by any other party.

Respectfully submitted,

CITY OF CHATTANOOGA, TENNESSEE
OFFICE OF THE CITY ATTORNEY

By: _____
PHILLIP A. NOBLETT - BPR #10074
Deputy City Attorney
CRYSTAL R. FREIBERG - BPR #23732
Assistant City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402
(423) 643-8250

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Initial Rule 26(A)(1) Disclosures was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail.

Phillip C. Lawrence
LAWRENCE & LAWRENCE, PLLC
200 East Eighth Street
Chattanooga, TN 37402

This 17th day of July, 2010.